

COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 153

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide for legislative intent; to provide an exemption from insurance premium taxes for
3 certain insurance products; to change the minimum number of employees required to be
4 covered under an insurance contract or contracts held by a corporation or trustee; to provide
5 for the Commissioner of Insurance to adopt policies to promote, approve, and encourage
6 health savings account eligible high deductible plans in Georgia; to provide for exemptions
7 from certain unfair trade practices for certain wellness and health promotion programs,
8 condition or disease management programs, health risk appraisal programs, and similar
9 provisions in such plans; to provide for certain requirements for such plans; to provide for
10 health reimbursement arrangement only plans that encourage employer financial support of
11 health insurance or health related expenses under certain circumstances; to provide for
12 related matters; to provide for applicability and effective dates; to repeal conflicting laws;
13 and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15
16 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
17 adding a new subsection (c) in Code Section 33-8-4, relating to amount and method of
18 computing tax on insurance premiums generally, to read as follows:

19 "(c) For all taxable years beginning on or after January 1, 2009, insurers shall be exempt
20 from otherwise applicable state premium taxes as provided for in subsection (a) of this
21 Code section on premiums paid by Georgia residents for high deductible health plans sold
22 or maintained in connection with a health savings account under the applicable provisions
23 of Section 223 of the Internal Revenue Code."

SECTION 2.

Said title is further amended by adding a new subsection (a.1) in Code Section 33-8-8.1, relating to county and municipal corporation taxes on life insurance companies, to read as follows:

"(a.1) For all taxable years beginning on or after January 1, 2009, insurers shall be exempt from otherwise applicable local premium taxes as provided for in subsection (b) of this Code section on premiums paid by Georgia residents for high deductible health plans sold or maintained in connection with a health savings account under the applicable provisions of Section 223 of the Internal Revenue Code. The provisions of this subsection shall expire on January 1, 2015, unless the General Assembly acts to extend these provisions."

SECTION 3.

Said title is further amended by adding a new subsection (a.1) in Code Section 33-8-8.2, relating to amount and method of computing local insurance premium taxes on insurance companies other than life insurance companies, to read as follows:

"(a.1) For all taxable years beginning on or after January 1, 2009, insurers shall be exempt from otherwise applicable local premium taxes as provided for in subsection (a) of this Code section on premiums paid by Georgia residents for high deductible health plans sold or maintained in connection with a health savings account under the applicable provisions of Section 223 of the Internal Revenue Code. The provisions of this subsection shall expire on January 1, 2015, unless the General Assembly acts to extend these provisions."

SECTION 4.

Said title is further amended by revising paragraph (5) of subsection (a) of Code Section 33-24-6, relating to consent of an insured to an insurance contract and exceptions, as follows:

"(5) A corporation not described in paragraph (4) of this subsection may effectuate insurance upon its employees in whom it has an insurable interest, and a trustee of a trust established by a corporation providing life, health, disability, retirement, or similar benefits may effectuate insurance upon employees for whom such benefits are to be provided; if the insurance contract or contracts held by ~~the~~ such corporation or ~~the~~ trustee cover at least ~~100~~ two employees. For purposes of this paragraph, any employee of a group of corporations consisting of a parent corporation and its directly or indirectly owned subsidiaries shall be considered to be an employee of each corporation within ~~the~~ that group; or".

SECTION 5.

Said title is further amended by striking Chapter 51 in its entirety and inserting in lieu thereof a new Chapter 51 to read as follows:

"CHAPTER 51

33-51-1.

This chapter shall be known and may be cited as the 'Georgia Affordable HSA Eligible High Deductible Health Plan.'

33-51-2.

It is the intent of the General Assembly:

(1) To authorize the Commissioner to establish flexible guidelines for health savings account eligible high deductible plan designs which will be affordable to Georgians and to increase the availability of these types of plans by accident and sickness insurers licensed to transact such insurance in this state;

(2) To encourage the offering of affordable health savings account eligible high deductible plans, as required under the rules of the federal Internal Revenue Service related to the establishment of health savings accounts, with the specific intent of reaching many otherwise uninsured Georgians and the general intent of creating affordable comprehensive health insurance for all Georgians; and

(3) To enhance the affordability of insurance with the flexible health savings account eligible high deductible plans allowed under this chapter by allowing rewards and incentives for participation in and adherence to health behaviors that recognize the value of the personal responsibility of each citizen to maintain good health, seek preventative care services, and comply with approved treatments.

33-51-3.

(a) The Commissioner shall develop flexible guidelines for coverage and approval of health savings account eligible high deductible plans which are designed to qualify under federal and state requirements as high deductible health plans for use with health savings accounts which comply with federal requirements under the applicable provisions of the federal Internal Revenue Code for high deductible health plans sold in connection with health savings accounts.

(b) The Commissioner shall be authorized to encourage and promote the marketing of health savings account eligible high deductible plans by accident and sickness insurers in this state; provided, however, that nothing in this Code section shall be construed to

1 authorize the sale of insurance in violation of Chapter 3 of this title or interstate sales of
2 insurance.

3 (c) The Commissioner shall be authorized to conduct a national study of health savings
4 account eligible high deductible plans available in other states and to determine if and how
5 these products serve the uninsured and if they should be made available to Georgians.

6 (d) The Commissioner shall be authorized to develop an automatic or fast track approval
7 process for health savings account eligible high deductible plans already approved under
8 the laws and regulations of this state or other states.

9 (e) The Commissioner shall be authorized to promulgate such rules and regulations as he
10 or she deems necessary and appropriate for the design, promotion, and regulation of health
11 savings account eligible high deductible plans, including rules and regulations for the
12 expedited review of standardized policies, advertisements and solicitations, and other
13 matters deemed relevant by the Commissioner.

14 33-51-4.

15 Insurers that include and operate wellness and health promotion programs, disease and
16 condition management programs, health risk appraisal programs, and similar provisions in
17 their high deductible health policies in keeping with federal requirements shall not be
18 considered to be engaging in unfair trade practices under Code Section 33-6-4 with respect
19 to references to the practices of illegal inducements, unfair discrimination, and rebating.

20 33-51-5.

21 There shall be no required relationship between preferred provider and nonpreferred
22 provider plan reimbursements for health savings account eligible high deductible plans
23 using nonpreferred provider reimbursements. Such plans, however, shall not:

- 24 (1) Unfairly deny health benefits for medically necessary covered services;
25 (2) Have differences in benefit levels payable to preferred providers compared to other
26 providers that unfairly deny benefits for covered services;
27 (3) Have a plan coinsurance percentage applicable to benefit levels for services provided
28 by nonpreferred providers that is less than 60 percent of the benefit levels under the
29 policy for such services; or
30 (4) Have an adverse effect on the availability or the quality of services.

31 33-51-6.

32 (a) The Commissioner shall be authorized to allow health reimbursement arrangement
33 only plans that encourage employer financial support of health insurance or health related
34 expenses recognized under the rules of the federal Internal Revenue Service to be approved

1 for sale in connection with or packaged with individual health insurance policies otherwise
2 approved by the Commissioner.

3 (b) Health reimbursement arrangement only plans that are not sold in connection with or
4 packaged with individual health insurance policies shall not be considered insurance under
5 this title.

6 (c) Individual insurance policies offered or funded through health reimbursement
7 arrangements shall not be considered employer sponsored or group coverage for purposes
8 of this title, and nothing in this Code section shall be interpreted to require an insurer to
9 offer an individual health insurance policy for sale in connection with or packaged with a
10 health reimbursement arrangement or to accept premiums from health reimbursement
11 arrangement plans for individual health insurance policies.

12 33-51-7.

13 Notwithstanding the provisions of paragraphs (2) and (3) of Code Section 33-51-5, health
14 benefit plans providing incentives for covered persons to use pharmaceutical or dental
15 services of preferred providers shall provide, and clearly indicate, that the payment or
16 reimbursement for a noncontracting provider of covered pharmaceutical or dental services
17 shall be the same as the payment or reimbursement for a preferred provider of covered
18 pharmaceutical or dental services; provided, however, that the health benefit plan shall not
19 be required to make payment or reimbursement in an amount which is greater than the
20 actual fee charged by the provider for such dental or pharmaceutical services."

21 **SECTION 6.**

22 Sections 1, 2, and 3 of this Act shall become effective on January 1, 2009, and shall be
23 applicable to all taxable years beginning on or after January 1, 2009. The remaining sections
24 of this Act shall become effective upon its approval by the Governor or upon its becoming
25 law without such approval.

26 **SECTION 7.**

27 All laws and parts of laws in conflict with this Act are repealed.